MIDLAND CITY COUNCIL
MINUTES
May 28, 2013

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on May 28, 2013.

Council Members present: Mayor W. Wesley Perry, Council Member Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Mayor Pro Tem Jeff Sparks (District 1), Council Member John Love (District 2), Council Member John James (District 3), and Council Member Michael Trost (District 4).

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Utilities Director Stuart Purvis, Community Services Director Tina Jauz, Engineering Director Jose Ortiz, Downtown Development Director Genora Young, Chief Information Officer Sharlett Chowning, Solid Waste Director Morris Williams, City Engineer David Beard, Building Official Steve Thorpe, GIS Manager Bill Hodge, Assistant Code Administration Manager Ron Jenkins, Senior Engineering Technician Troy Clabaugh, Transportation Manager Gary Saunders, and Senior Planner Ken VanDyne.

The meeting was called to order at 9:00 a.m.

1. Receive a presentation on Pictometry Imagery and its use within the City.

   GIS Manager Bill Hodge thanked the Council for approving the most recent update to pictometry. He explained the City's partners include MISD, Midland Central Appraisal District, Midland County, Midland County Emergency Communications, and MOTOR MPO. He shared a few pictures showing how Midland has changed in just a few years and explained the value of regular updates.

2. Receive a presentation from Jody Sneed on the operations and programming of Community and Senior Services.

   Jody Sneed provided an overview of the operations and programming of Community and Senior Services emphasizing their meals services, homebound services, senior center activities, volunteer hours, foster grandparent program and senior companion program.

   Mr. Sneed answered questions about the size and condition of the facilities, issues facing senior citizens, and demographics of the area. It was noted that the vehicles used to transport seniors are owned by Community Senior Services and are not owned by the City. Mr. Sneed reported that vehicles have exceeded their life expectancy and they are working with EZ Rider to explore other alternatives for transportation.

3. Receive a presentation from Transportation Manager Gary Saunders regarding the downtown parking concept.

Transportation Manager Gary Saunders reported that a subcommittee of the Downtown Consortium was formed to look at the potential use of smart meters. He briefly reviewed the meters and how they operate, noting the City would opt for single space meters that would take coins, dollars and credit cards. The reason for the use of meters is to create turnover, to keep employees from parking in prime parking locations and to help with retail uses. It is also being recommended to include services for maintaining the system, enforcing the meters, and collecting money to keep staff free to do other duties.

When asked how the revenue would be channeled, City Manager Sharp reported he expected it to be applied to TIRZ or DMMD for future development of the downtown. Mr. Sharp reported that the RFP for both the smart meters and the consulting would be on a future agenda for Council consideration.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:58 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:05 a.m., May 28, 2013.

Council Members present: Mayor W. Wesley Perry, Council Member Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Mayor Pro Tem Jeff Sparks (District 1), Council Member John Love (District 2), Council Member John James (District 3), and Council Member Michael Trost (District 4).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, and Assistant City Manager Jim Nichols.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 9, 10, 11, 12, 6, 7, 8, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26.

OPENING ITEMS

1. Invocation - Pastor Mickey Eckles, Mid-Cities Community Church

2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:

   a. Mayor Perry presented Certificates of Completion to the 2013 Midland 101 graduates.

   b. The presentation of a Proclamation for Midland Christian Track & Field Team Day was moved to a future agenda.

   c. The presentation of a Proclamation for Midland Christian Lady Mustang Track &

Field Team Day was moved to a future agenda.

PUBLIC COMMENT

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.

   Tammy McKinney, 2000 Todd Drive, expressed concern regarding cell phone usage and texting while driving. She reported she was the victim of a driver who was texting while driving in 2006 and asked Council to ban cell phone use while driving in Midland.

   Paul Grimes, 4501 Crenshaw, shared photos of illegal activity at a public golf course.

CONSENT AGENDA

Council Member Dufford moved to approve Consent Agenda items 5 - 12 excluding 6, 7, 8; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:

   a. Regular meeting of May 14, 2013.

9. Approved a resolution appointing Fire Chief Robert Isbell to the Midland Emergency Communication District. (CITY MANAGER'S OFFICE)

   RESOLUTION NO. 2013 - 155
   RESOLUTION APPOINTING ROBERT ISBELL TO THE BOARD OF MANAGERS OF THE MIDLAND EMERGENCY COMMUNICATION DISTRICT

10. Approved a resolution to approve a Professional Service Agreement with AMD Engineering in the amount of $479,477 for design surveying, design, and construction administration services in connection with the extension of Tradewinds Boulevard from Thomason Drive to the Gateway Plaza Addition. (ENGINEERING SERVICES)

    RESOLUTION NO. 2013 - 156
    RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH AMD ENGINEERING, LLC FOR SURVEYING, DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES IN CONNECTION WITH THE EXTENSION OF TRADEWINDS BOULEVARD FROM THOMASON DRIVE TO THE GATEWAY PLAZA ADDITION; AND AUTHORIZING PAYMENT THEREFOR IN THE AMOUNT OF $479,477.00

11. Approved a resolution to accept an Assistance to Firefighters Grant for $50,000. (FIRE)

    RESOLUTION NO. 2013 - 157
    RESOLUTION ACCEPTING A GRANT AWARD FROM THE 2012 ASSISTANCE TO FIREFIGHTERS GRANT IN THE AMOUNT OF $50,000.00, GRANT NUMBER EMW-2012-FO-06522, THIS GRANT WILL ALLOW THE CITY OF MIDLAND TO PURCHASE

BREATHING AIR EQUIPMENT FOR FIREFIGHTING; THIS GRANT IS AN 80% FEDERAL GRANT WITH THE CITY OF MIDLAND PROVIDING 20% OF THE COSTS; THE FEDERAL GRANT PORTION IS $50,000.00 AND THE CITY'S PORTION WILL BE $10,000.00 TOTALING $60,000.00

12. Approved a resolution to apply for the FY2014-2015 Victim Coordinator and Liaison Grant offered through the Office of the Attorney General. (POLICE)

RESOLUTION NO. 2013 - 158

RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE OFFICE OF THE TEXAS ATTORNEY GENERAL FOR FISCAL YEAR 2014-2015 VICTIM COORDINATOR AND LIAISON GRANT PROGRAM FUNDING; THIS GRANT WILL DESIGNATE AN INDIVIDUAL TO SERVE AS A REPRESENTATIVE TO CONSULT WITH THE TEXAS ATTORNEY GENERAL IN ORDER TO ENSURE THAT VICTIMS, GUARDIANS OF VICTIMS, OR RELATIVES OF DECEASED VICTIMS ARE AFFORDED THE RIGHTS GRANTED TO THEM

The following items were pulled from Consent Agenda and considered individually.

6. Consider a resolution awarding a contract for the construction of Fire Station #10 and appropriating funds for the General Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 150

RESOLUTION AWARDING A CONTRACT FOR THE CONSTRUCTION OF FIRE STATION #10 TO J.C. ROBERTS CONSTRUCTION COMPANY, INCORPORATED, OF ODESSA, TEXAS, AT A TOTAL ESTIMATED COST OF $3,582,274.00; AND APPROPRIATING FUNDS IN THE AMOUNT OF $4,408,019.00

When asked about construction cost, General Services Manager Robert Patrick reported that over the last year and a half, construction costs have gone up from $220 per square foot to $298 per square foot. Several competitive bids were received and he felt it was a representative of the economy. The fire station will be simple architecture to keep construction costs down. Mr. Patrick explained some of the other features of the building.

Council Member Love moved to adopt Resolution No. 2013 - 150; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

7. Consider a resolution authorizing a professional services agreement for the design, development and project management of the Doug Russell Outdoor Pool Renovation Project for the Community Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 152

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INCORPORATED, OF IRVING, TEXAS, FOR PROFESSIONAL DESIGN, DEVELOPMENT AND PROJECT MANAGEMENT SERVICES FOR THE DOUG RUSSELL OUTDOOR POOL RENOVATION PROJECT; AND APPROPRIATING $30,000.00 FOR SAID PROFESSIONAL SERVICES

Parks & Recreation Manager Laurie Williams reported that this would be the first phase of the project and the second phase would be the actual construction.

Council Member Dufford moved to adopt Resolution No. 2013 - 152; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

8. Consider a resolution approving a special event permit for the Juneteenth Celebration on June 15, 2013. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 154

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS APPROVING THE JUNETEENTH CELEBRATION PARADE TO BE HELD ON JUNE 15, 2013; AND THE COUNCIL FINDS THAT THE PARADE WILL CROSS BUSINESS INTERSTATE 20 AND THE TEXAS DEPARTMENT OF TRANSPORTATION HAS APPROVED THE ROUTE; AND THE PARADE ROUTE WILL CROSS THE UNION PACIFIC RAILROAD AND THE COUNCIL FINDS THAT THE UNION PACIFIC RAILROAD HAS APPROVED THE ROUTE AND THE CROSSING OF THE RAILROAD TRACKS; AND WAIVING THE APPLICATION AND CLEAN-UP FEE

Solid Waste Director Morris Williams reported that Union Pacific Railroad does not have a process to approve the route but an incident number was created and the track manager would be notified of the date and time of the parade.

Questions were raised about how Union Pacific would handle the incident and if the trains would be slowed down or stopped.

Council Member Love moved to adopt Resolution No. 2013 - 154; seconded by Council Member Morales.

Discussion ensued about the longevity of this event without incident, the fact that the event was only a couple of weeks away, and questions were raised as to whether any parade should be allowed to cross the railroad tracks.

When asked if the City had waived application and clean up fee in the past, City Manager Sharp reported he would find out. Council Member James stated he would be happy to pay the clean up fee.

Council Member James moved to amend the motion by changing the wording "Council find that Union Pacific Railroad has approved a route" to "the City has made efforts to notify Union Pacific Railroad of the route, directing the City to send a certified copy of the resolution to Union Pacific Railroad, and giving the City Manager final authority to approve the permit"; seconded by Council Member Love. The motion to amend carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: Sparks. ABSTAIN: None. ABSENT: None.

The motion, as amended, carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: Sparks. ABSTAIN: None. ABSENT: None.

SECOND READINGS

13. Consider an ordinance on second reading on a request by Michael Postar for a zone change from LR-1, Local Retail District on Lot 1, Block 10 and from MF-1, Multiple Family Dwelling District on Lot 15, Block 11 and the vacated 0.23-acre alley right-of-way, to PD, Planned District for a Shopping Center, all out of Trueland Addition, Section 2, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of East Scharbauer Drive and North Fairgrounds Road.) (DEVELOPMENT SERVICES) (First reading held May 14, 2013.)

ORDINANCE NO. 9142

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 10, LOT 15, BLOCK 11, AND THE ADJACENT VACATED 0.23-ACRE ALLEY RIGHT-OF-WAY, ALL OUT OF TRUELAND ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-1, LOCAL RETAIL DISTRICT, IN PART, AND MF-1, MULTIPLE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF EAST SCHARBAUER DRIVE AND NORTH FAIRGROUNDS ROAD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Moreno read the caption of Ordinance No. 9142.

Council Member Trost moved to approve the second and final reading of Ordinance No. 9142 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

14. Consider an ordinance on second reading amending Title III, Chapter 1, Section 10 of the City Code. (SOLID WASTE) (First reading held May 14, 2013.)

ORDINANCE NO. 9144

AN ORDINANCE AMENDING TITLE III, “DEPARTMENTS,” CHAPTER 1, “WATER DEPARTMENT,” SECTION 10, “PERMITTED USES OF THE OPTIONAL LITTER ABATEMENT AND BEAUTIFICATION FEE,” OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO REFLECT THE CURRENT ORDINANCE NO. 9065 WHICH MADE SAID FEE MANDATORY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary Moreno read the caption of Ordinance No. 9144.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9144 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

15. Consider an ordinance on second reading amending Title III, Chapter 1, Section 11 of the City Code. (SOLID WASTE) (First reading held May 14, 2013.)

ORDINANCE NO. 9145

AN ORDINANCE AMENDING TITLE III, “DEPARTMENTS,” CHAPTER 1, “WATER DEPARTMENT,” SECTION 11, “BILLING OF THE OPTIONAL LITTER ABATEMENT AND BEAUTIFICATION FEE,” OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO REFLECT THE CURRENT ORDINANCE NO. 9065 WHICH MADE SAID FEE MANDATORY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary Moreno read the caption of Ordinance No. 9145.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9145 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

16. At approximately 10:30 a.m. hold a public hearing and consider an ordinance on a request by Madura Vista for a zone change from PD, Planned District for a Shopping Center, to O-1, Office District on a 0.95-acre tract of land out of Lots 1 and 2, Block 3, Mayfield Place Addition, Section 2, City and County of Midland, Texas. (Generally located between Mockingbird Lane and Bromley Place west of Mayfield Place.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9146

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 0.95-ACRE TRACT OF LAND OUT OF LOTS 1 AND 2, BLOCK 3, MAYFIELD PLACE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF MOCKINGBIRD LANE, 860 FEET EAST OF MIDKIFF ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Senior Planner Ken VanDyne gave an overview of the item.

Mayor Perry opened the public hearing at 11:03 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9146.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9146 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

17. At approximately 10:33 a.m. hold a public hearing and consider a request for the annexation of a 40.498-acre tract (Tract 1) of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.) This is a public hearing only. No action will be taken. (DEVELOPMENT SERVICES)

    Senior Planner Ken VanDyne gave an overview of the item noting no action is required by City Council and that this was the first of 3 tracts for annexation.

    Mayor Perry opened the public hearing at 11:05 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

18. At approximately 10:36 a.m. hold a public hearing and consider a request of the annexation of a 305.17-acre (Tract 2) of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Highway 191 west of North Farm-to-Market Road 1788.) This is a public hearing only. No action will be taken. (DEVELOPMENT SERVICES)

    Senior Planner Ken VanDyne gave an overview of the item noting this property would likely be used for light industrial development, and that zoning would be considered at the June 25th Council Meeting.

    Mayor Perry opened the public hearing at 11:07 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

    When asked what prompted the annexation, Mr. VanDyne reported that this land was under an Agricultural Exemption Agreement and is being considered for development. This item is considered a voluntary annexation because the participants are willing to annex.

19. At approximately 10:39 a.m. hold a public hearing and consider a request for the annexation of a 2.47-acre tract (Tract 3) of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40.) This is a public hearing only. No action will be taken. (DEVELOPMENT SERVICES)

    Senior Planner Ken VanDyne gave an overview of the item noting it is a proposed single lot for annexation and will be zoned IP2 to match the surrounding zoning.

    Mayor Perry opened the public hearing at 11:10 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

20. At approximately 10:42 a.m. hold a public hearing and consider a resolution on a request by Midland Restaurants, Inc. dba The Bar for a Temporary Land Use Permit for an Outdoor Amusement Function on Lots 7 through 9, Block 61, Original Town, City and County of Midland, Texas. (Generally located on the northeast corner of W. Missouri Avenue and Carrizo Street.) (DEVELOPMENT SERVICES)

    RESOLUTION NO. 2013 - 159

    RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR AMUSEMENT FUNCTION ON LOTS 7-9, BLOCK 61, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST

CORNER OF WEST MISSOURI AVENUE AND CARRIZO STREET); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Senior Planner Ken VanDyne gave an overview of the item noting this was for an outdoor event on June 15. The site plan includes closing a portion of Carrizo Boulevard. The applicant has completed the necessary paperwork including a Special Event Application that is required for the right of way closure.

Mayor Perry opened the public hearing at 11:12 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Sparks moved to adopt Resolution No. 2013 - 159; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

21. At approximately 10:45 a.m. hold a public hearing and consider an ordinance on a request by Saltgrass, Inc. for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on Lot 5, Block 44, Fairmont Park Addition, Section 26, City and County of Midland, Texas. (Generally located south side of W. Loop 250 North, approximately 450 feet west of N. Midland Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9147

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 5, BLOCK 44, FAIRMONT PARK ADDITION, SECTION 26, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 450 FEET WEST OF NORTH MIDLAND DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Senior Planner Ken VanDyne gave an overview of the item noting for this was for alcoholic beverage sales at Saltgrass Steakhouse. Their seating capacity is 375 occupants.

Mayor Perry opened the public hearing at 11:14 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9147.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9147 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

22. At approximately 10:48 a.m. hold a public hearing regarding a proposed oil and gas permit to Petroplex Energy, Inc. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Western-T 8 #2) located 1260 feet from the north line and 672 feet from the east line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of the extension of North Midkiff Road, approximately 3/4 mile north of the extension of Green Tree Boulevard.) This is a public hearing only. No action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave an overview of the item noting that no letters of objection had been received, that the Oil & Gas Advisory Committee had reviewed the item, and that the applicant had addressed recommendations of the Committee. The applicant has requested a waiver of the Road Repair Agreement as they will not be traveling on any City roads.

Mayor Perry opened the public hearing at 11:17 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

MISCELLANEOUS

23. Consider an ordinance on a request by Mike Massey for the vacation of the 0.30-acre alley adjacent to Lots 1 through 5, Block 5, of the 1.45-acre alley adjacent to Lots 1 through 14, Block 6, of the 0.90-acres of the right-of-way of Mandy Lane adjacent to Lots 1 through 9, Block 6 and to Lots 1 though 9, Block 7 and the 1.78-acres of the right-of-way of Corporate Drive and Spring Park Drive adjacent to Lots 1 through 5, Block 5 and Lots 10 through 14, Block 6, all out of Corporate Plaza, Section 4, City and County of Midland, Texas. (Generally located on the east side of Edwards Street, approximately 870 feet north of E. Wadley Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9148

AN ORDINANCE VACATING AND ABANDONING A 0.30-ACRE ALLEY ADJACENT TO LOTS 1-5, BLOCK 5, A 1.45-ACRE ALLEY ADJACENT TO LOTS 1-14, BLOCK 6, A 0.90-ACRE PORTION OF MANDY LANE RIGHT-OF-WAY ADJACENT TO LOTS 1-9, BLOCK 6, AND TO LOTS 1-9, BLOCK 7, AND A 1.78-ACRE PORTION OF CORPORATE DRIVE RIGHT-OF-WAY AND SPRING PARK DRIVE RIGHT-OF-WAY ADJACENT TO LOTS 1-5, BLOCK 5, AND TO LOTS 10-14, BLOCK 6, ALL OUT OF CORPORATE PLAZA, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF EDWARDS STREET, APPROXIMATELY 870 FEET NORTH OF EAST WADLEY AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $19,321.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Senior Planner Ken VanDyne gave an overview of the item noting the purchase price would be assessed by Midland Central Appraisal District and would be due prior to the second reading.

Deputy City Secretary Moreno read the caption of Ordinance No. 9148.

Council Member Love moved approval of the first of two readings of Ordinance No. 9148 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

24. Consider a resolution awarding a contract for Lamesa Road Pedestrian Access Improvements and appropriating funds for the Engineering Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 153

RESOLUTION AUTHORIZING THE CITY MANAGER TO SELECT THE MOST ADVANTAGEOUS BIDDER, AND TO NEGOTIATE AND EXECUTE A CONTRACT WITH THE CHOSEN BIDDER FOR THE CONSTRUCTION OF THE LAMESA ROAD PEDESTRIAN ACCESS PROJECT

City Engineer David Beard provided an overview of the item noting the project originally went out for bid in February and the low bidder was unable to obtain bonds for the project. The item was rebid but staff was unable to check references by the time agenda items were due. Since then it has been determined that the low bidder, Ti-Zack has good references and staff recommends allowing the City Manager to negotiate the contract in order to have the project move forward as quickly as possible.

Council Member James moved to adopt Resolution No. 2013 - 153; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

25. Consider a motion making appointments to various Boards and Commissions.

No appointments were made.

EXECUTIVE SESSION

26. Mayor Perry noted that pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

Mayor Perry noted that there were no items to discuss in Executive Session.

All of the business at hand having been completed, the meeting adjourned at 11:24 a.m.

PASSED AND APPROVED the 11th day of June, 2013.

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W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, City Secretary